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UNITED STATES DEPARTMENT OF AGRICULTURE
Food Production Administration

MANUAL on Enforcement of Food Production Orders

Prepared by and for the Use of Employees of the Office of the Solicitor and the Food Production Administration

Issued April 24, 1943

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CONTENTS

	Section
Introduction	1000
Reports of violations	2000
In general	2100
Use of subpoena power	2200
Enforcement sanctions	3000
Administrative action	3100
Court action	3200
Civil action	3210
Criminal action	3220
Warning letter procedure	4000
Suspension order procedure	5000
Procedure prior to the institution of suspension order proceedings	5100
Determination whether suspension order proceedings should be held	5110
Preparation and content of statement of charges	5120
Service	5130
Personal service	5131
Registered mail	5132
Proof of service	5140
Filing of answer and request for hearing	5150
Procedure where no answer is filed	5160
Procedure where answer is filed and no request to be heard is made	5170
Procedure where answer and request to be heard are filed	5180
The hearing and its incidents	5200
Designation of presiding officer	5210
Notice of hearing	5220
Powers of presiding officer	5230
Conduct of hearing	5240
Evidence	5241
Defaults and admissions of allegations at hearing	5242
Order of proceeding	5243
Post hearing procedure	5300
Record	5310
Presiding officer's report	5320
Procedure upon receipt of presiding officer's report by director	5330
Issuance and service of suspension order	5340
Reconsideration	5350
Modification or revocation of suspension order	5360
Summary suspension orders	5400
Judicial proceedings	6000
Criminal prosecution	6100
Injunctions	6200

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Appendix:

(a) Names and addresses of local representatives of the Office of the Solicitor located outside Washington, D. C.

(b) Names of persons duly authorized to act as presiding officers and to issue subpoenas.

Forms:

E–2 [1] Subpoena Duces Tecum.
E–3 Subpoena ad Testificandum.
E–4 Warning Letter.
E–5 Statement of Charges.
E–6 Statement of Procedure.
E–7 Certificate of Service.
E–8 Suspension Order.
E–9 Order of Dismissal.
E–10 Notice of Hearing.

[1] Form E–1 is a form for reporting violations, and will be attached to appropriate instructions of the Director of Food Production concerning reports of violations.

SECTION 1000

INTRODUCTION

The orders issued by the Department of Agriculture pursuant to the priority, allocation, and rationing powers [1] delegated to the War Food Administrator [2] (hereinafter referred to as the "Administrator"), represent a vital element in our effort to win the war, and require the utmost cooperation of all persons who have a part in their administration and enforcement. This manual sets forth the procedure to be followed in enforcement, and shall apply to all priority, allocation, and rationing orders and regulations administered by the Director of Food Production (hereinafter referred to as the "Director").

Great emphasis should be placed on the necessity for prompt action by all persons who take part in the administration and enforcement of the orders. Whenever possible, precedence should be given to matters concerning the orders, such as reports of violations, arrangements for hearings, conduct of hearings, and action following hearings.

Two points which are of extreme importance in the enforcement of the orders are: (1) The securing and reporting of complete information concerning violations, and (2) the preparation of proper records of administrative hearings. Failure at either of these points may seriously affect the enforcement of the orders.

SECTION 2000

REPORTS OF VIOLATIONS

SECTION 2100

IN GENERAL

It is the policy of the Department to require strict compliance with the orders. A complete report shall be promptly made of all violations. The available sanctions consisting of warning letters, suspension order proceedings, injunctive or criminal action, may be used singly or together.

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[1] Act of June 28, 1940 (54 Stat. 676), as amended by the Act of May 31, 1941 (Pub. Law No. 89, 77th Cong.), and as amended by Title III of the Second War Powers Act, 1942 (Pub. Law No. 507, 77th Cong.).

[2] Executive Order 9280, 7 F. R. 10179; Executive Order 9322, 8 F. R. 3807; Executive Order 9334, 8 F. R. 5423.

Reports of violations shall be made in accordance with instructions of the Director. Such instructions will be issued from time to time, as circumstances warrant.

It should be borne in mind that the determination with respect to the nature of action to be taken will be based, primarily, upon the facts disclosed by the investigation report and, to a large extent, the sanctions finally invoked will be based upon the facts so disclosed. Consequently, careful and meticulous attention should be given to the collection of facts and the presentation thereof in the investigation report.

Members of county farm rationing committees, when investigating violations, and investigators of the Department and the Food Production Administration, and Departmental attorneys are authorized to take and receive the affidavits of any persons and to administer oaths in connection therewith. (8 F. R. 3222.)

If a member of a State War Board or investigator requires legal advice quickly concerning any food production order, he may communicate with the nearest attorney of the Office of the Solicitor. The names and addresses of these offices are listed in part (a) of the appendix to this manual.

Section 2200

USE OF SUBPOENA POWER

In conducting the investigations of violations, the use of subpoenas may be helpful and proper in cases in which the facts or documents sought cannot otherwise be obtained. The subpoena power, however, should be used sparingly and only when other means of conducting an investigation have proved futile. In no instance should a subpoena be used for the purpose of obtaining access to the books and records of the person under investigation prior to a demand having been made on him and his attention having been called to the provisions of the order requiring him to make them available. Various employees of the Department, including Regional Attorneys of the Office of the Solicitor, have been authorized to issue subpoenas. In cases requiring the use of subpoenas, application should be made for a subpoena to the Regional Attorney for the region involved or to any other person authorized to issue such subpoenas. (8 F. R. 3222.) The names of such persons are included in part (b) of the appendix to this manual.

In the issuance of a subpoena only those records which are essential should be demanded, and the person subpoenaed should be given sufficient time to produce the required data. The time and place of appearance should be clearly stated and so fixed as to

cause as little interference as possible with the business of such person. Forms of subpoenas *duces tecum* and *ad testificandum* are attached as, respectively, Forms E–2 and E–3.

Under Title III of the Second War Powers Act, pursuant to which subpoenas are issued for the enforcement of rationing, allocation, and priority orders, it is provided that the production of a person's books, records, or other documentary evidence shall not be required at any place other than the place where such person resides or transacts business, if, prior to the return date specified in the subpoena issued with respect thereto, such person furnishes a true copy of such books, records, or other documentary evidence (certified by such person under oath to be a true and correct copy) or enters into a stipulation as to the information contained in such books, records, or other documentary evidence.

A witness appearing in response to a subpoena is entitled to the same fees and mileage as are paid witnesses in the courts of the United States. The form for use in claiming such fees and mileage is Form 1034–Rev.–G. A. O. When used, this form, properly executed, should be forwarded to the Director.

A person called to testify or to produce books pursuant to a subpoena is not excused from attending and testifying, or from producing such books or other documentary evidence, on the ground that the testimony or evidence required may tend to incriminate him or subject him to a penalty or forfeiture. However, if any individual claims his constitutional privilege against self-incrimination and is made to testify, such person is granted immunity from prosecution concerning any crimes or violations which his testimony reveals, except that he is not exempt from prosecution and punishment for perjury committed in so testifying. Therefore, persons representing the Government should exercise caution in compelling individuals to testify who claim that their testimony will incriminate them. Such person should not be made to testify or to produce the documentary evidence demanded unless it is clear that the evidence so obtained can be obtained in no other fashion, and that the importance of obtaining the information in the particular proceedings outweighs the result which the Government would obtain in proceeding against the person who claims his privilege against self-incrimination. It should be borne in mind that the subpoenaing of the witness and his testifying after appearing in response thereto does not result in his receiving immunity unless he has specifically claimed his rights against self-incrimination and has been made to testify thereafter.

Where a person refuses to obey a subpoena, the matter should be referred to the Regional Attorney, who will, through the

United States Attorney, take recourse to the District Court for the enforcement of the subpoena (Title III, Second War Powers Act).

SECTION 3000

ENFORCEMENT SANCTIONS

It should be borne in mind that the various enforcement sanctions are available for use against any of the classes of persons regulated. These include, among others, manufacturers, mail order houses, distributors, dealers, and farmers. In instances where more than one person participates in the violation, full information concerning the violation by each person should be reported. The available sanctions may be invoked by:

SECTION 3100

ADMINISTRATIVE ACTION

The most drastic administrative action that may be taken against a person violating an order is the issuance of a suspension order against such person. Such an order has the effect of denying to the person either the right to receive, to use, or to deliver any material subject to priority or allocation control. Necessarily, the form of a suspension order in a particular case will depend upon the nature of the food production order which a person has violated, as well as the function performed by the person proceeded against. Where such drastic action is not deemed warranted, the administrative action may take the form of warning letters, visitation, or educational programs, whichever may be deemed to lend itself best to the furtherance of compliance.

SECTION 3200

COURT ACTION

Court action will result in the imposition of civil or criminal sanctions, or both.

SECTION 3210

CIVIL ACTION

The Second War Powers Act (Pub. Law 507, 77th Cong., 2d Sess., approved March 27, 1942) confers upon the district courts of the United States and the United States courts of any Territory, or other place subject to the jurisdiction of the United States, jurisdiction to enforce food orders or subpoenas issued in connection with investigations under food orders.

SECTION 3220

CRIMINAL ACTION

Two general types of criminal action are available: (a) Title III of the Second War Powers Act makes it a crime for any person wilfully to disobey any allocation, rationing or priority order, rule, or regulation issued by the Secretary pursuant to the authority confered upon him by Executive Order No. 9280. Such a crime is declared to be a misdemeanor and such person may be fined $10,000, or imprisoned for not more than one year, or both; and (b) Section 35a of the Criminal Code (18 U. S. C. 1940 ed. 80) makes it a crime for any person wilfully to file a false report concerning any matter within the jurisdiction of any Department or agency of the United States. Many of the food production orders require persons to file specific information with the Director, while many other food production orders require persons subject thereto to file such information as the Director may from time to time request. In all cases where a person required to report information to the Director wilfully makes a false report, the sanctions authorized by Section 35a of the Criminal Code may be used. The penalty which may be imposed under section 35a is a fine of $10,000, or an imprisonment for 10 years, or both.

Section 8 of Pub. Law 831, 77th Cong., 2d Sess., approved December 24, 1942, provides that where any person fails to furnish any information required by an agency of the United States, such person shall be subjected only to such specific remedy as is provided by statute, and that no other administrative penalty may be imposed upon such person, such as the denial of a right, privilege, priority, or allocation, unless the exercise of such right, privilege, priority, or allocation is legally conditioned on the facts which would be revealed by the information requested. Consequently, where an individual fails to report information required by a food production order, or by the Director pursuant to a food production order, the only remedies available will be either the issuance of a subpoena requiring the production of the documents required, or the institution of court proceedings to compel the production or to impose the criminal penalties provided by Title III of the Second War Powers Act.

The procedure for handling violation reports and determining the action to be taken with respect to violations is set forth in the following pages.

SECTION 4000

WARNING LETTER PROCEDURE

In cases where, in the opinion of the Director, there is no justification for invoking sanctions, he may refer such matters to the

appropriate branch for further adjustment by way of education, visitation, publicity, or similar methods. However, in cases involving more serious violations but which, in the opinion of the Director, do not warrant either court action or suspension orders, he may decide to send a warning letter to the person involved. When it has been determined to adopt this action, the Director shall refer the file containing the investigation report and all other pertinent papers to the Associate Solicitor in Charge of Food Production and Forestry (hereinafter referred to as the "Associate Solicitor"), whose duty it will be to prepare a warning letter for the signature of the Director. The warning letter, when prepared by the Associate Solicitor, should be transmitted to the Director for signature and mailing to the person involved. A form of warning letter is set forth as Form E–4.

SECTION 5000

SUSPENSION ORDER PROCEDURE

SECTION 5100

PROCEDURE PRIOR TO THE INSTITUTION OF SUSPENSION ORDER PROCEEDINGS

SECTION 5110

DETERMINATION WHETHER SUSPENSION ORDER PROCEEDINGS SHOULD BE HELD

The following considerations will be weighed before a proceeding is instituted:

a. The legal theory basic to the issuance of suspension orders, in cases of violations, is that such orders are issued not primarily to punish violators, but to prevent the diversion of allocated commodities from essential civilian and military uses into nonessential uses. The proceeding is instituted primarily to determine whether the alleged violator may be trusted with further distribution or use of the commodities.

b. The principal advantages of the administrative procedure and sanction are (a) the speed with which the sanction can be imposed, (b) the control exercisable over the period of suspension, with adjustment to the requirements of particular cases, and (c) the almost automatic compliance obtained because of the operation of the order against suppliers.

c. The suspension order should not be used as a substitute for criminal proceedings in cases of wilful and flagrant violations of the orders. It may, however, be used as a complementary sanction in cases where criminal proceedings are recommended and prompt discontinuance of the offending activity is imperative.

d. The administrative procedure should not be used in cases of trivial or unintentional violations; the suspension order

may be a severe sanction and it should be employed accordingly.

e. The effect of the issuance of a suspension order upon local production and distribution of the material or commodity in question should be considered along with the effect of application of the sanction upon compliance in the area.

Section 5120

PREPARATION AND CONTENT OF STATEMENT OF CHARGES

In the event that the Director decides that the case is one appropriate for administrative action in the form of the issuance of a suspension order, he shall refer the case, including the investigation report and all other pertinent data, to the Office of the Solicitor, attention of the Associate Solicitor, with his recommendations. The Associate Solicitor shall thereupon assign a docket number to the proceeding and prepare for the signature of the Director, a statement of the charges to be sent to the person against whom the proceeding is directed (hereinafter referred to as the respondent). The statement of charges shall contain the following:

a. A brief and clear statement of the allegations of fact which constitute a basis for the proceedings, specifying, with particularity, the matters and things in issue. The allegations of fact with respect to each separate violation shall be set forth in separately numbered paragraphs. The statement of charges shall not include charges, implied charges, or requirements phrased generally in the words of any order or act. However, the provisions of any order or act may be identified, quoted, or used in preliminary recitals. The allegations of fact should be as specific as practicable with respect to dates, persons, materials, products, or weights and uses of material whenever these factors are revelant to the violation charged. In short, allegations of fact in the statement of charges shall constitute a summary of the ultimate facts established by the evidence contained in the report of investigation. The charging paragraph should conclude with a reference to the order violated, such as, "This sale of a tractor constitutes a violation of Food Production Order No. 3, effective November 28, 1942."

b. A statement that the purpose of the proceeding is to determine whether, based upon the charges contained in the statement of charges, a suspension order should issue against the respondent withholding from him priorities and allocations assistance and prohibiting him from receiving, processing, using, delivering, or dealing in any material or product, the supply, distribution, use, or production of which is governed or limited by any order administered by the Food Production Administration.

c. A statement informing the respondent that he must, within five days after service of the statement of charges, file a written answer with the Director, which answer should (a)

contain a precise statement of the facts which constitute the grounds of defense and should specifically admit, deny, or explain each of the allegations of the statement of charges unless the respondent is without knowledge, in which case the answer shall so state; or (b) state that the respondent admits all the allegations of the statement of charges. The respondent should also be informed that he may, within five days after service upon him of the statement of charges, ask for an opportunity to be heard, if he so desires. The respondent should further be informed that a failure to file an answer shall constitute a waiver of any objection to the taking of such action as is deemed appropriate. (A form of a statement of charges is set forth as Form E–5.)

There shall also be prepared, to accompany the statement of charges, a brief statement of the procedure to be followed at the hearing, if one is requested, in which the nature of the proceeding is briefly indicated. (A form of such a statement is set forth as form E–6.)

SECTION 5130

SERVICE

The Associate Solicitor shall cause a statement of charges and accompanying statement of procedure to be served upon the respondent, either by personal service or by registered mail. Such service shall be made as follows:

SECTION 5131

PERSONAL SERVICE

Personal service shall be made upon an individual other than an infant by delivering a copy of the statement of charges and accompanying statement of procedure to him personally or by leaving copies thereof at his dwelling house, usual place of abode, with some person of suitable age and discretion then residing therein or by leaving a copy thereof at his usual place of business, or by delivering a copy of such papers to an agent authorized by appointment or by law to receive service of process. Personal services shall be made upon an infant by serving such papers in the manner prescribed by law of the State in which service is made for the service of summons or other like process upon any such person in an action brought in the courts of general jurisdiction of that State. Personal service shall be made upon a domestic or foreign corporation or upon a partnership or other unincorporated association which is subject to suit under a common name, by delivering a copy of such papers to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process and, if the agent is one authorized by statute to receive service and the statute so requires, by also mailing a copy to such person.

SECTION 5132

REGISTERED MAIL

The statement of charges and statement of procedure shall be served by causing to be registered and mailed a copy addressed to the individual, partnership, corporation, organization, or association, who is the respondent, at his or its last known residence, principal office, or place of business.

SECTION 5140

PROOF OF SERVICE

When service has been effected, the person making such service shall prepare the proof of service as follows:

a. In case of personal service, he shall execute a certificate showing the date, time, and place where service was effected, and the person upon whom service was effected and the nature of the document served.

b. In the case of service by registered mail, the person effecting service shall execute a certificate showing the date, time, and place at which the document was mailed, and to whom addressed, and the nature of the document mailed, and shall attach thereto the registered mail receipt. The certificate in both cases shall disclose that the person effecting service was not a party to the proceeding and was over 18 years of age. (A form of certificate of service is set forth as Form E–7.)

The statement of charges, with proof of service attached thereto, shall be filed in the docket immediately after service has been effected.

SECTION 5150

FILING OF ANSWER AND REQUEST FOR HEARING

The answer and request to be heard, if desired, must be filed with the Director within five days after the service of the statement of charges. The answer and request shall be deemed to have been filed on the date of mailing, as evidenced by the postmark at the place of mailing, or, if otherwise delivered at the office of the Director, on the date of such delivery, as evidenced by the time it is marked filed in such office.

SECTION 5160

PROCEDURE WHERE NO ANSWER IS FILED

(a) Where, within the time specified in the statement of charges, the respondent fails to file an answer with the Director, the Associate Solicitor shall, upon request by the Director, forthwith prepare a suspension order for the signature of the Administrator, or such person as he may designate, to be issued against the respond-

ent. (A form of suspension order is attached as Form E–8.) The docket shall then be returned to the Director.

(b) After the docket is transmitted to the Director, he shall forward it to the Administrator, or to such other person as may be designated by the Administrator, for signature. It shall be transmitted to the Administrator by routing for initials through the Compliance Committee of the Food Production Administration, the office of the Director, and the office of the Solicitor. After the Administrator or the person designated by him signs the order, it shall be published in the Federal Register, and in this connection the Secretary's Records Section shall perform the same functions it does with respect to all other food production orders. In addition, copies of the order shall be served upon the respondent and such other persons as may be designated. Finally, the docket shall be sent to the Hearing Clerk of the Office of the Solicitor, who shall be the permanent custodian thereof.

Section 5170

PROCEDURE WHERE ANSWER IS FILED AND NO REQUEST TO BE HEARD IS MADE

Where, within the time specified for filing, the Respondent files an answer with the Director, but does not make a request to be heard, the Director shall proceed to consider the matters set forth in the answer and to make his decision as to the action to be recommended.

(a) If, in the opinion of the Director, the charges made against the Respondent are satisfactorily explained by the matters set forth in the answer, or if, for any other reason, the Director thinks that a dismissal is proper in the particular proceeding, he may decide to dismiss the proceeding without further action. In such instances, the Director shall transmit the docket to the Associate Solicitor with a memorandum stating his decision, and the Associate Solicitor shall prepare, for the signature of the Director, an order of dismissal. The docket shall then be returned to the Director, who shall cause a copy of the order of dismissal to be served upon the Respondent. The docket shall then be transmitted to the Hearing Clerk, Office of the Solicitor, who shall be the permanent custodian thereof. (A form of an order of dismissal is set forth as Form E–9.)

(b) If, in the opinion of the Director, the facts revealed by the answer disclose that a suspension order would not be appropriate in the particular case but that a warning letter would suffice, he may decide to dispose of the proceeding by sending a warning letter to the respondent. In such instances, the procedure to be followed by the Director and the Associate Solicitor shall be the same as that prescribed above in connection with the use of warning letters.

(c) If, in the opinion of the Director, the charges are not satisfactorily explained by the answer, and he determines that a suspension order should issue against the respondent, the procedure to be followed by the Director and the Associate Solicitor shall be the same as that set forth in section 5160.

(d) Even though no answer is filed or an answer is filed but the respondent does not request a hearing, the Director may order that a hearing be held if, in his opinion, such action is desirable for a more full development of the facts and surrounding circumstances.

Section 5180

PROCEDURE WHERE ANSWER AND REQUEST TO BE HEARD ARE FILED

Where, within the time specified for filing, the respondent files an answer and request to be heard with the Director, the case shall be disposed of as follows:

(a) If, in the opinion of the Director, the charges made against the respondent are satisfactorily explained by the matters set forth in the answer, or if, for any other reason, the Director thinks that a dismissal is proper in the particular proceeding, he may decide to dismiss the proceeding without further action. In such instances, the Director shall transmit the docket to the Associate Solicitor with a memorandum stating his decision, and the Associate Solicitor shall prepare, for the signature of the Director, an order of dismissal. The docket shall then be returned to the Director who shall cause a copy of the order of dismissal to be served upon the respondent. The docket shall then be transmitted to the Hearing Clerk, Office of the Solicitor, who shall be the permanent custodian thereof. (A form of an order of dismissal is set forth as Form E–9.)

(b) If, in the opinion of the Director, the facts revealed by the answer disclose that a suspension order would not be appropriate in the particular case but that a warning letter would suffice, he may decide to dispose of the proceeding by sending a warning letter to the respondent. In such instance, the procedure to be followed by the Director and the Associate Solicitor shall be the same as that prescribed above in connection with the use of warning letters.

(c) If, in the opinion of the Director, the charges are not satisfactorily explained by the matters set forth in the answer and a request to be heard has been made by the respondent, the Director shall transmit the docket to the Associate Solicitor, who shall follow the procedure set forth in the following pages of this manual.

SECTION 5200

THE HEARING AND ITS INCIDENTS

SECTION 5210

DESIGNATION OF PRESIDING OFFICER

The Associate Solicitor shall then forward the docket to the Regional Attorney for the region in which the respondent resides. The Regional Attorney shall designate a person to preside at the hearing. Such person shall be an employee of the Department of Agriculture authorized to act as a presiding officer. (8 F. R. 3222.) See Appendix (b). The Associate Solicitor, if he desires, may, instead of sending the docket to the Regional Attorney, himself appoint a presiding officer from those persons duly authorized.

Hearings shall be conducted by the presiding officer in accordance with the procedure specified in the statement accompanying the statement of charges and in addition, in accordance with the specific instructions set forth in this manual.

The Regional Attorney, in designating the presiding officer, should bear in mind that the success of the suspension order proceeding as a method of enforcement will depend in a large measure on the skill and good judgment of the presiding officer who should, therefore, be one who will make every effort to conduct the proceedings fairly and in conformity with these instructions. The responsibility for obtaining a suspension order in the case of any particular alleged violation is not that of the presiding officer. No person who has any pecuniary interest in the outcome of the proceeding; who has participated in the investigation preceding the institution of the proceeding; or who bears any relationship to any of the parties to the proceeding shall be designated or serve as presiding officer in such proceeding.

The presiding officer should be familiar with the statutes, directives, orders, and regulations involved in the proceeding.

In case of the absence, illness, resignation, or death of the presiding officer who has been assigned to a proceeding, or, in case the Solicitor determines that, for other good cause, such presiding officer should not act, the powers and duties to be performed by him, in connection with such proceeding, may be assigned to any other authorized employee of the United States Department of Agriculture.

SECTION 5220

NOTICE OF HEARING

The presiding officer, upon being designated, shall immediately prepare and serve upon the respondent, in the manner set forth under the heading "Service" (see Section 5130), a notice of hearing, notifying the respondent to appear before him at a designated time and place to present any defense to or explanation of the charges that the respondent may have. (A form of notice of hearing is attached as Form E–10.) The place of hearing shall be fixed by the presiding officer at a place convenient to the parties, giving due consideration to the number of parties and witnesses and transportation difficulties. The notice shall state that if the respondent does not appear as directed, his nonappearance will be deemed a waiver of any objection to the taking of such action as is deemed warranted by the record in the proceeding.

SECTION 5230

POWERS OF PRESIDING OFFICER

In any proceeding assigned to him, the presiding officer shall have power to:

(a) Rule upon motions and requests (all motions shall be in writing except that those made during the hearing may be stated orally);

(b) Adjourn the hearing from time to time and change the place of hearing (this power includes the right, for good cause shown, to continue the hearing so as to give the respondent a chance to appear where he has failed to appear at the designated time and place of hearing);

(c) Administer oaths and affirmations and take affidavits;

(d) Admit or exclude evidence;

(e) Issue subpoenas requiring the attendance and testimony of witnesses and the production of books, papers, and other documentary evidence. (This power should be used sparingly by the presiding officer and only in unusual instances. If subpoenas are issued at the request of the respondent, witness fees shall be paid by the respondent); and

(f) Do any act and take all measures necessary for the maintenance of order and efficient conduct of the proceeding.

SECTION 5240

CONDUCT OF THE HEARING

In any proceeding in which it appears that such procedure will expedite the proceeding, the presiding officer may, at any time, request the parties or their counsel to confer with him to consider: (a) the simplification of issues; (b) the possibility of obtaining stipulations of fact and all documents which may avoid unneces-

sary proof and examination of witnesses; and (c) such other matters as may expedite and aid in the disposition of the proceeding. No transcript of such conference shall be made, but there shall be prepared and filed for the record a written summary of the action taken as a result of the conference, including any written stipulations or agreements made as a result of the conference.

In many cases formal appearances by attorneys for respondents will not be made. In such an event, the presiding officer shall take such steps as are necessary to insure a full and complete presentation of the respondent's case.

Although no written transcript of the hearing is required unless requested by the Director or the respondent, it is deemed advisable to have a transcript when satisfactory facilities for taking a transcript are available. Insofar as Food Production orders are concerned, it may be possible to obtain stenographic assistance for taking a transcript from a field office of the Food Production Administration. If the respondent requests a transcript, he must provide for the making thereof and for the payment of expenses therefor. Where a transcript is made, two legible copies thereof shall be furnished to the presiding officer without charge within such time after completion of the taking of testimony as he shall direct. No transcript shall be made or considered part of the record until approved and certified by the presiding officer. In the event that no stenographic transcript of the testimony is taken, the presiding officer shall provide for the taking of such notes at the time of hearing as will enable him to make a written summary of the relevant evidence received at the hearing.

The presiding officer should see that all appearances are appropriately noted, together with the name of the person on whose behalf the appearance is made. If it develops that the person ultimately responsible for the violation, and against whom the suspension order, if issued, would operate has not been notified, a further notice should be issued.

The presiding officer should see that the original of the notice of hearing and the certificate of service are made a part of the record.

The demeanor of the attorney for the Government, if any attorney is designated for the hearing, shall conform in all respects to the standards of fairness with which Government attorneys are expected to comply. The participation of any such attorney in the proceeding ends at the conclusion of the hearing except as to his possible participation in briefs that may be written in connection with the matter.

Contemptuous conduct by any person at any hearing shall be grounds for exclusion of such person from the hearing.

The following specific instructions shall govern the presiding officer in conducting the hearing:

SECTION 5241

Evidence.—The testimony of witnesses at a hearing shall be upon oath or affirmation and subject to cross-examination. Any witness may, at the discretion of the presiding officer, be examined separately and apart from all other witnesses except those who may be parties to the proceeding. The rules of evidence prevailing in courts of law and equity shall not be controlling.

The test of admissibility shall be the reliability, relevancy, and probative force of the evidence offered. Remote hearsay and unreliable evidence, which would not be convincing to the ordinary man, should not be received. Likewise, purely cumulative evidence should be avoided whenever possible. The grounds of any objection to the admission or rejection of any evidence shall be briefly stated. The transcript, if any, shall not include argument except as ordered by the presiding officer. The ruling of the presiding officer shall be a part of the transcript, if any.

The practice of offering evidence in written form where the parties are willing to do so should be encouraged.

The presiding officer, throughout the hearing, shall also mark for identification all of the exhibits offered by the parties which are received by him. Whenever practicable, an exhibit should be submitted with three copies.

The refusal of a witness at a hearing to answer any question which has been ruled to be proper shall, in the discretion of the presiding officer, be ground for striking out all testimony previously given by such witness as to all matters.

If a respondent or a witness refuses to testify on the ground of his privilege against self-incrimination, he shall not be compelled to testify unless directed by the presiding officer with the consent of the representative of the Government to testify pursuant to Title III of the Second War Powers Act.

Affidavits may be received at the discretion of the presiding officer if the evidence is otherwise admissible.

SECTION 5242

Defaults and Admissions of Allegations at Hearing.—(1) The failure of the respondent to appear at a hearing shall be deemed a waiver by him of the right to an opportunity to be heard and of any objection by him to the taking of such action as is deemed warranted by the facts alleged in the statement of charges. On such failure of the respondent to appear, the presiding officer shall thereupon prepare his report, which shall contain a certification as to the nonappearance of the respondent, and forward it, together with the docket, to the Director. The Director shall follow the procedure set forth in Section 5160.

(2) Upon the admission at the hearing by the respondent of the facts alleged in the statement of charges, the presiding officer shall prepare a formal statement of such admission for the record. The presiding officer may, in his discretion, allow the introduction of evidence with respect to mitigating circumstances and conditions which will tend to assist in the determination of the nature and effective period of the sanction to be invoked. The presiding officer shall then prepare his report containing his recommendations and forward it, together with the docket, to the Director. Thereupon, the procedure hereinafter set forth under the heading "Post Hearing Procedure" shall be followed.

SECTION 5243

Order of Proceeding.—The presiding officer shall open the hearing with a brief statement of the purpose of the hearing and the procedure that will be followed. The representative of the Government shall then proceed to introduce, either through the investigator or otherwise, such data and information as is deemed appropriate in explanation and clarification of the charges contained in the statement of charges. Thereafter, the respondent shall present such data and information in support of the facts alleged in his answer and in contravention of the allegation of facts contained in the statement of charges as he or his counsel deems appropriate and the presiding officer rules relevant. This presentation by the respondent may be in narrative form or in response to questions and may be presented through the respondent or other persons familiar with the revelant facts. At the close of the hearing, the presiding officer may allow a short period for the presentation of oral argument or for a summary of the facts disclosed at the hearing and, if he deems it advisable, may allow briefs to be filed within a period prescribed by him, not to exceed five days.

SECTION 5300

POST HEARING PROCEDURE

SECTION 5310

RECORD

As soon as practicable after the close of the hearing, the presiding officer shall certify an original and one copy of the record of the proceeding which shall contain the following:

a. The procedural documents, including the statement of charges, notice of hearing, and the certificates of service;

b. The evidence received at the hearing, either stenographically transcribed or summarized by the presiding officer, including exhibits, stipulations, or other documents, which have been received by the presiding officer; and

c. Briefs, if any, received by the presiding officer.

In the event that a summary statement of the evidence is made by the presiding officer, he shall, before transmitting the record to the Director, submit copies of the summary statement of the evidence to the parties to the proceeding or to their representatives. Accompanying the record, the presiding officer shall also transmit his report, which shall consist of proposed findings of fact, conclusions of law, and the recommended order to be entered in the proceeding.

SECTION 5320

PRESIDING OFFICER'S REPORT

The presiding officer's report shall be prepared with great care. Accordingly, the findings, both on the facts constituting the alleged violation and the facts relevant to the period of suspension, should be clear and succinct. There should be a finding on every fact of significance in the case. The findings of fact shall normally follow the allegations of fact in the statement of charges, and where the findings in the report deviate from the facts alleged in the statement of charges the report should contain an explanation of the reasons for such deviation. The presiding officer shall prepare his report as soon after the conclusion of the hearing as is consistent with proper care and deliberation. In the period following the conclusion of the hearing, this must be considered as his most important duty. Unless the report is prepared and the record of the proceeding is forwarded promptly, the advantages of speed in the application of this administrative sanction will be lost completely.

SECTION 5330

PROCEDURE UPON RECEIPT OF PRESIDING OFFICER'S REPORT BY DIRECTOR

Upon receipt of the docket and record from the presiding officer, including the report and recommended order of the presiding officer, the Director shall proceed as follows:

a. If the presiding officer recommends a dismissal of the proceeding and the Director agrees to such recommendation, the Director shall request the Associate Solicitor to prepare an order of dismissal for the signature of the Director, and the procedure shall be the same as that set forth in paragraph (a) of Section 5170.

b. If, however, the Director does not agree with the presiding officer in the recommendation of the latter to dismiss the proceeding, the Director shall prepare a memorandum stating his reasons why a suspension order should issue and forward the docket, including such memorandum, to the Associate Solicitor, with the request that the Associate Solicitor

prepare a suspension order. The case will then be handled as provided herein for the signing and issuance of a suspension order.

c. If the presiding officer recommends that a suspension order be issued and the Director agrees to such recommendation, the Director shall forward the docket, with the suspension order prepared by the Regional Attorney, to the Administrator in the manner set forth in paragraph (b) of Section 5160.

d. If the presiding officer recommends the issuance of a suspension order and the Director does not agree with such recommendation, the same procedure should be followed as that prescribed in (b) of this section, except that the Director shall have the Associate Solicitor prepare a dismissal order instead of a suspension order.

SECTION 5340

ISSUANCE AND SERVICE OF SUSPENSION ORDER

Where the Administrator or person designated by him does not adopt for signature and issuance the proposed order of the Director, he shall refer the docket to the Office of the Solicitor with a request for the preparation of a suspension order or such other document as may be required to effectuate the disposition of the proceeding in the manner determined by him.

All orders issued by the Administrator, or such person as he may designate, shall be served in the manner provided for the service of statements of charges as previously set forth herein, upon the parties and such other persons as may be specified (see Section 5130). However, only suspension orders shall be published in the Federal Register.

SECTION 5350

RECONSIDERATION

The respondent may, within five days after a suspension order is served on him, apply in writing to the Administrator or the person who, pursuant to a delegation from the Administrator, has issued the suspension order, for reconsideration. The filing of such an application shall not stay the operation of the order unless it is otherwise directed. Facts or arguments bearing on the merits of the policy embodied in the order or regulation violated will not be considered.

SECTION 5360

MODIFICATION OR REVOCATION OF SUSPENSION ORDER

The Administrator, or such person as he may designate, may, upon a determination that a suspension order tends to interfere

with the maintenance of an adequate supply and efficient distribution of food to meet war and essential civilian needs, modify or revoke such order. This action may be taken upon his own initiative or upon application made by persons affected by the operation of the suspension order.

SECTION 5400

SUMMARY SUSPENSION ORDERS

1. Upon the conviction of any person in a court of the United States on a charge of having violated any food production order, the Administrator, or any person designated by him, may, without previous notice to the party, issue a suspension order withholding from such person priorities and allocations assistance and prohibiting him from receiving, processing, using, delivering, or dealing in any material or product the supply, distribution, use, or production of which is governed or limited by any order administered by the Department of Agriculture.

2. An emergency suspension order, directing or ordering a person to refrain from receiving, using, or disposing of allocated materials, may be issued by the Administrator, or such person as he may designate, when it is determined that such an order should issue for the purpose of preventing the diversion of allocated materials from war and essential civilian needs pending the preparation and service of a statement of charges in the manner provided for in this manual. When facts indicating the need for the issuance of such an order come to the attention of the Director, he shall request the Associate Solicitor immediately to prepare such an order for the signature of the Administrator, or such person as has been designated by the Administrator to consider such matters. The issuance of an emergency suspension order will not be approved unless sufficient facts are submitted to determine whether scarce materials are being diverted from war and essential civilian needs. In no event will an emergency suspension order be issued when the invocation of the other available sanctions will give relief to the Government. These orders, as their name implies, are for use only in emergency situations where no other adequate remedy is available.

SECTION 6000

JUDICIAL PROCEEDINGS

SECTION 6100

CRIMINAL PROSECUTION

The Director may, after examination of reports of violations of either food production orders or suspension orders, transmit such

reports of violation to the Office of the Solicitor with his recommendation that criminal prosecution be instituted.

SECTION 6200

INJUNCTIONS

The Director may, after examination of reports of violations of either food production orders or suspension orders, refer the reports of violations to the Office of the Solicitor with a recommendation that an injunction be obtained against the violator restraining him from violating the order or orders involved.

Criminal prosecution, injunctions, and administrative proceedings are not mutually exclusive but may be used singly or together, as is deemed appropriate, for any violation.

[Signed] M. CLIFFORD TOWNSEND,
Director of Food Production.
ROBERT H. SHIELDS,
Solicitor.

APPENDIX

(a) NAMES AND ADDRESSES OF LOCAL REPRESENTATIVES OF THE OFFICE OF THE SOLICITOR LOCATED OUTSIDE WASHINGTON, D. C.

Sydney Ehrlich,
Office of the Solicitor, U. S. D. A.,
6th Floor, Faller Building,
Cincinnati, Ohio.

William F. Farrell, Regional Attorney,
Office of the Solicitor, U. S. D. A.,
401 Construction Building,
Dallas, Texas.

Robert P. Dorough,
Office of the Solicitor, U. S. D. A.,
106–108 Masonic Building,
Amarillo, Texas.

Casper M. Murphy, Regional Attorney.
Office of the Solicitor, U. S. D. A.,
831 Fourteenth Street,
Denver, Colorado.

Edwin S. French ,
Office of the Solicitor, U. S. D. A.,
218 Post Office Building,
P. O. Box No. 1310,
Albuquerque, New Mexico.

Charles S. Brothers,
Office of the Solicitor, U. S. D. A.,
Post Office Building,
Missoula, Montana.

Francis M. Pearl, Jr.,
Office of the Solicitor, U. S. D. A.,
Central Building,
Wichita, Kansas.

Willson C. Moore,
Office of the Solicitor, U. S. D. A.,
411 Inter-Island Building,
Honolulu, Hawaii.

Grafton G. Dowling, Jr.,
Office of the Solicitor, U. S. D. A.,
342 Massachusetts Avenue,
Indianapolis, Indiana.

Robert K. McConnaughey, Associate Solicitor,
Office of the Solicitor, U. S. D. A.,
211 West 14th Street,
Kansas City, Missouri.

Dan P. Chisholm, Regional Attorney,
Office of the Solicitor, U. S. D. A.,
1126 Donaghey Building,
Little Rock, Arkansas.

James L. Roulhac,
Office of the Solicitor, U. S. D. A.,
c/o Emergency Crop and Feed Loan Office,
Old Commercial Appeal Building,
Memphis, Tennessee.

James A. Doyle, Regional Attorney,
Office of the Solicitor, U. S. D. A.,
13 and N Streets,
Lincoln, Nebraska.

Spurgeon E. Paul, Regional Attorney,
Office of the Solicitor, U. S. D. A.,
208 S. La Salle St.,
Chicago, Illinois.

John E. Croak,
Office of the Solicitor, U. S. D. A.,
Northern Pacific Railway Building,
St. Paul, Minnesota.

M. Philip Frank,
Elton C. Hotchkiss,
Office of the Solicitor, U. S. D. A.,
528 Federal Building,
Milwaukee, Wisconsin.

Todd Smith, Regional Attorney,
Office of the Solicitor, U. S. D. A.,
4th Floor East Wing,
Farm Security Building,
Montgomery, Alabama.

Linton B. West,
Office of the Solicitor, U. S. D. A.,
711 Glenn Building,
Atlanta, Georgia.

Leonard O. Carson, Regional Attorney,
Office of the Solicitor, U. S. D. A.,
632 Bankers Securities Building,
Juniper and Walnut Streets,
Philadelphia, Pennsylvania.

John J. Dillon,
Office of the Solicitor, U. S. D. A.,
Farm Credit Building,
St. Paul and Twenty-fourth Streets,
Baltimore, Maryland.

James A. O'Donnell,
Office of the Solicitor, U. S. D. A.,
150 Broadway,
New York, New York.

Gilbert Sussman, Regional Attorney,
Office of the Solicitor, U.S.D.A.,
327 Terminal Sales Building,
Portland, Oregon.

Elmer J. Scott, Regional Attorney,
Office of the Solicitor, U. S. D. A.,
Raleigh, North Carolina.

William S. Moye, Jr.,
Office of the Solicitor, U. S. D. A.,
Old Dispensary Building,
Gervais Street,
Columbia, South Carolina.

Harry P. Dechant, Regional Attorney,
Office of the Solicitor, U. S. D. A.,
548 Phelan Building,
San Francisco, California.

Abner R. Neff,
315 West Ninth Street,
% Guayule Emergency Rubber Project,
Los Angeles, California.

Thomas M. Talbott,
Office of the Solicitor, U. S. D. A.,
Forest Service Building,
Ogden, Utah.

Edward S. Chambers,
Office of the Solicitor, U. S. D. A.,
Salisbury Building,
Salt Lake City, Utah.

Harry C. Lamberton, Acting Associate Solicitor,
Office of the Solicitor, U. S. D. A.,
Boatmen's Bank Building,
420 Locust Street,
St. Louis, Missouri.

Paul E. Stafford,
Office of the Solicitor, U. S. D. A.,
315 Pine Street,
St. Louis, Missouri.

Linus R. Fike, Regional Attorney,
Office of the Solicitor, U. S. D. A.,
% Farm Security Administration,
Box #2988, San Juan, Puerto Rico.
Telegrams to: 29–31 Commercio St.,
San Juan, Puerto Rico.

(b) (Copy of document appearing in 8 F. R. 3222)

Title 7.—AGRICULTURE

Subtitle A.—OFFICE OF THE SECRETARY

DESIGNATION OF PERSONS TO HOLD HEARINGS, TO SIGN AND ISSUE SUBPOENAS, AND TO ADMINISTER OATHS OR AFFIRMATIONS

(A) In order to enable the Secretary of Agriculture to discharge his duties under any and all Statutes, Executive Orders, or Directives, or any regulations, directives, or orders issued pursuant thereto, which are administered in the Department of Agriculture, the persons in the Office of the Solicitor of the Department of Agriculture, whose names are listed below, are hereby designated and authorized, when assigned by the Solicitor, or by his designated representative, to act as examiners, presiding officers, or referees, in connection with any hearings held under the said statutes, orders, or directives during the period from January 15, 1943, to June 30, 1945, inclusive. As such examiners, presiding officers, or referees, they are hereby authorized to conduct hearings under the said acts or orders in accordance with the applicable regulations and to perform all the duties and exercise all the powers including but not limited to the powers to administer oaths and affirmations and issue notices of hearings which, under such regulations, are to be performed or exercised by such examiners, presiding officers, and referees:

Allen, Cleve W.
Anthony, Elijah.
Bagwell, John C.
Ball, Jesse G., Jr.
Baskette, Jesse E., Jr.
Benda, Velda M.
Bigelow, May T.
Blackburn, K. Wilde.
Bolding, William A.
Bowyer, Ephraim P.
Broderson, Charles E.
Brody, Ralph M.
Brooks, Neil.
Brothers, Charles S.
Brown, Alberta.
Brownell, Robert O.
Bucy, Charles W.
Burchard, Russell D.
Campbell, Howard V.
Camunas, Jose F.
Carson, Leonard O.
Carter, Joseph F.
Casteel, Charles G.
Catchings, Benjamin.
Chambers, Edward S.
Chisholm, Dan P.
Christian, Forest A.
Clulow, Ernest E., Jr.
Coffman, Claude T.
Cook, Jesse L.

Cooper, George E.
Crane, Michael E.
Crigler, Ilene M.
Croak, John E.
Curry, John H.
Curry, John J.
Dagger, Golden N.
Dechant, Harry P.
DeFrancq, Harry J.
Denham, Raymond O.
Dillman, Raymond L.
Dillon, John J.
Dimon, Philip W.
Donahue, John E.
Dorough, Robert P.
Dowling, Grafton G., Jr.
Doyle, James A.
Edwards, Rufe D.
Ehrlich, Sydney.
Farr, Jesse R.
Farrell, William F.
Faust, Fred J.
Fike, Linus R.
Firestone, L. J.
Fischer, Russell P.
Folkerth, Justin H.
Foster, William J.
Frank, M. Philip.
French, Edwin S.
French, Leland S.
Gifford, Glen J.
Girard, Clarence H.
Goldman, Abe A.
Griffin, John.
Gunnells, Charles W.
Hadley, Albert D.
Hankes, F. H.
Hankins, Morris C.
Heggy, Donald R.
Hilbun, Henry, Jr.
Holstein, Benjamin M.
Horn, Gilbert A.
Hotchkiss, Elton C.
Howard, Albert C.
Hunter, W. Carroll.
Hyde, George Osmond.
Ise, Walter J.
Jordan, Harold.
Kaseberg, John K.
Kaufman, Morris H.
Kelley, Charles Q.
Kindel, Mrs. Emily A.
King, LaBruce W.
Knudson, J. K.
Koebel, Ralph F.
Koontz, Clarence J.
Kratoska, Floyd R.
Krouse, Allen J.
Lamberton, Harry C.
Manatt, Sam L.
McCarthy, Richard F.
McConnaughey, Robert K.
McGregor, Thomas H.
McIntire, John A.
McNaught, Archibald.
Milby, Melville F.
Mischler, Raymond J.
Moffett, Coleman S.
Moore, Wilson C.
Moye, William S., Jr.
Mullin, Lewis N.
Murphy, Casper M.
Murphy, Joseph T.
Mynatt, Edward F.
Neff, Abner R.
Nicholson, Vincent D.
Norberg, Everett C.
Nutting, Charles B.
O'Brien, Philip M.
O'Donnell, James A.
O'Mahony, William J.
O'Rourke, C. Dennis.
Parker, Joseph O.
Paul, Spurgeon E.
Pearl, Francis M., Jr.
Pearlman, Kathryn.
Pierson, Lee P.
Platnik, Harry.
Poole, Marion E.
Quillian, C. F.
Regan, John W.
Reid, Howard A.
Robinson, Rogers N.
Rooney, Howard.
Roulhac, James L.
Rouss, Ruth.
Sachs, Sidney S.
Scott, Elmer J.
Sellers, Ashley.
Shaw, Earle L.
Sherbondy, Donald J.
Shields, Robert H.
Shulman, Edward M.
Slemmons, Warren R.

Smith, Allan.
Smith, Earl J.
Smith, Todd.
Spiegel, Morris D.
Stewart, Cloyd L.
Strange, Robert W.
Summers, Lionel M.
Sussman, Gilbert.
Talbott, Thomas M.
Tandy, William N.
Therkelsen, Lotus C. J.
Tremain, Rawleigh L.
Tucker, Robert A.
Van Hoy, John W.
Van Matre, William W.
Veeder, William H.
Vesper, Frank F.
Wales, Harry
Wallace, Blaine B.
Waters, Helen M.
West, Linton B.
White, Joseph H.
Williams, Sidney D.
Wilson, Clem B.
Wise, William C.
Zarky, Hilbert F.
Zimowski, Joseph B.

(B) In connection with any investigation or hearing relating to the administration or enforcement of the priority, allocation, or rationing authority of the Secretary of Agriculture under Executive Order 9280, dated December 5, 1942 (7 F. R. 10179), or any statute or order referred to therein, or any regulation or order issued pursuant thereto, each of the persons listed in paragraph (A) above is authorized to sign and issue subpoenas requiring any person to appear and testify or to appear and produce books or records or any other documentary or physical evidence, or both. The authority conferred by this paragraph (B) upon the persons set forth in paragraph (A) hereof shall be exercised in conformity with the provisions of subparagraph (4) of paragraph (a) of Section 2 of the Act of June 28, 1940 (54 Stat. 676), as amended by the Act of May 31, 1941 (Pub. Law 89, 77th Cong.), and by Title III of the Second War Powers Act, 1942 (Pub. Law 507, 77th Cong., approved March 27, 1942).

(C) In the administration or enforcement of the priority, allocation, or rationing authority of the Secretary of Agriculture under any of the statutes or orders or regulations mentioned in paragraph (B) hereof, any person employed as an inspector or investigator by, or performing inspection or investigative functions for, the Department of Agriculture is designated and authorized to administer oaths and affirmations for the purpose of procuring or receiving from any person a sworn statement concerning any matter under or appropriate for investigation.

(D) This designation supersedes the designation dated January 22, 1943, appearing in 8 F. R. 1082, and the designation dated January 21, 1943, effective January 22, 1943, appearing in 8 F. R. 1087. (5 U. S. C. 1940 ed. 22)

Done at Washington, D. C., this 13th day of March, 1943. Witness my hand and the seal of the Department of Agriculture.

[SEAL] (S) CLAUDE R. WICKARD,
Secretary of Agriculture.

NOTE: The persons designated to hold hearings and to issue investigatory subpoenas, mentioned in the foregoing document, are stationed in the offices of the local representatives of the Office of the Solicitor, set forth in part (a) of this appendix, and in the Office of the Solicitor in Washington, D. C.

Form E–2
U. S. Department of Agriculture

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE WAR FOOD ADMINISTRATOR

FOOD PRODUCTION ADMINISTRATION

DOCKET NO. . . . . { Eliminate if not used in docketed proceeding

SUBPOENA DUCES TECUM

To _____

_____

You are hereby required to appear before _____

_____

at _____

in the city of _____, State of _____, on the _____ day of _____, 194__, at _____ o'clock _____, m. WT, of that day, to testify as a witness in the above-entitled matter pending before the War Food Administrator, and you are hereby required to bring with you and produce at said time and place the following books, papers, letters, or other documentary evidence:

_____

_____

_____

_____

Fail not at your peril.

Witness my hand at _____

_____, this _____

day of _____, 194__.

_____

(Name and title)

Acting pursuant to authority delegated to and by the War Food Administrator under Title III of the Second War Powers Act, 1942 (Pub. No. 507, 77th Cong.) : E. O. 9280, 7 F. R. 10179 ; E. O. 9322, 8 F. R. 3807 ; E. O. 9334, 8 F. R. 5423 ; 8 F. R. 3222.

_____, _____ of

_____

is hereby designated to serve the within subpoena.

_____

(Name and title)

RETURN OF SERVICE

I HEREBY CERTIFY that a duplicate original of the within subpoena was duly served (a) in person, (b) by registered mail, (c) by leaving a copy at the principal office or place of business, to-wit:

_____

(Strike out methods not employed)

on the person named herein on the _____ day of _____, 194__

_____

I CERTIFY that the person named herein was in attendance as a witness and produced the documentary evidence within required herein, at _____

_____

on _____

_____

(Name and title)

Form E–3

U. S. Department of Agriculture

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE WAR FOOD ADMINISTRATOR
FOOD PRODUCTION ADMINISTRATION

DOCKET NO._____ } Eliminate if not used in docketed proceeding

SUBPOENA

To_____

_____

You are required to appear before _____

_____

at _____

in the city of _____, State of _____, on the _____ day of _____, 194__, at _____ o'clock _____. m. WT, of that day, to testify as a witness in the above-entitled matter pending before the War Food Administrator.

Fail not at your peril.

Witness my hand at _____, _____, this_____, day of _____, 194__.

_____

(Name and title)

Acting pursuant to authority delegated to and by the War Food Administrator under Title III of the Second War Powers Act, 1942 (Pub. No. 507, 77th Cong.): E. O. 9280, 7 F. R. 10179; E. O. 9322, 8 F. R. 3807; E. O. 9334, 8 F. R. 5423; 8 F. R. 3222.

---------- of
---------- is hereby designated to serve the within subpoena.

---------- (Name and title)

RETURN OF SERVICE

I HEREBY CERTIFY that a duplicate original of the within subpoena was duly served (a) in person, (b) by registered mail, (c) by leaving a copy at the principal office or place of business, to-wit:

---------- (Strike out methods not employed)
on the person named herein on the----------
day of ----------, 194-

I CERTIFY that the person named herein was in attendance as a witness as required herein, at ----------
----
on ----------
---------- (Name and title)

Form E–4
U. S. Department of Agriculture

WARNING LETTER

----------, 1943.

DEAR ----------:

You are hereby notified that an ----------
(investigation) (investigation and
---------- ----------
hearing) (investigation, answer, and hearing) (has) (have)
revealed that you have violated ----------
(Fill in name of order)
by ----------
(State nature of violation as specifically and concisely as possible)

You are hereby advised that the ----------
(Fill in nature of order: e. g.,
---------- comprises an important
rationing of new farm machinery and equipment)
contribution to this country's war effort and, therefore, the regulations must be strictly complied with. You are reminded that violators are subject to orders suspending their business operations and their use of rationed materials; that criminal penalties of $10,000 or imprisonment, or both, may result from violations; and that civil sanctions may be imposed against violators.

This letter is intended as a warning that this Department is determined to require strict compliance with its wartime regulations, and to caution you that steps will be taken to prosecute any further violations on your part to the limit allowed by the law.

Nothing contained in this letter shall be taken to condone the above violations of ---------- or to preclude this
(Fill in the name of the order)
Department from prosecuting said violations in the future if such prosecution is deemed advisable.

Very truly yours,

----------,
Director of Food Production.

523384—43——3

Form E–5
U. S. Department of Agriculture

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE WAR FOOD ADMINISTRATOR

FOOD PRODUCION ADMINISTRATION

STATEMENT OF CHARGES

In the Matter of—
_____
_____ } Docket No. _____

To
_____
_____
_____

You are hereby given notice that you are charged with having violated the provisions of Food Production Order No. _____, in that _____
_____
_____
_____
_____
_____

Such action constitutes a violation of Food Production Order No. _____ issued on _____, 194__ (__ F. R. ____).

You are further notified that you must answer such charges by filing a written answer with the Director of Food Production, Department of Agriculture, Washington, D. C., Reference F. P. O.: _____, within 5 days after receipt of this statement. An answer will be considered filed within such 5-day period if it is postmarked on the last day for filing. If you desire to be orally heard concerning the charges set forth above, you will be heard if you make a request for such hearing at the time you file your answer. If no such request is made within such time, you will be deemed to have waived such a hearing.

You are further notified that if you do not file an answer within such 5-day period or if the War Food Administrator, or such person as he may designate, determines from the evidence before him and your answer that you have violated the order in the manner set forth above, or if a hearing is held and the War Food Administrator, or such other person as he may designate, determines from your answer and the evidence submitted at such hearing that you have violated the order in the manner set forth above, the War Food Administrator, or such person as he may designate, may issue a suspension order prohibiting you from receiving or making

any deliveries or transfers of _____ _____, or any other products or commodities which may now or hereafter be rationed or allocated by, or subject to the priority control of, the War Food Administrator, or prohibiting you from selling, transferring, delivering, or otherwise dealing in _____ _____ or any other products or commodities which may now or hereafter be rationed or allocated by, or subject to the priority control of, the War Food Administrator, or both, for such period of time as may be deemed appropriate in the public interest and to conserve the supply of such products and commodities for essential military and civilian uses.

_____

Director of Food Production.

Form E–6
U. S. Department of Agriculture

(To Accompany a Statement of Charges)

STATEMENT OF PROCEDURE

If a hearing is requested by you, as provided in the Statement of Charges accompanying this document, such hearing will be governed by the following procedure:

You will be notified of the time and place of hearing. The place of hearing will be as near your place of business or residence as can be conveniently arranged; however, the determination of the place of hearing will be within the discretion of the presiding officer. At the hearing you may present data and information in support of the facts alleged in your answer and in contravention of the allegations of facts contained in the Statement of Charges personally, or by counsel or other representatives of your own choosing. In the event that you fail to appear at the hearing, the War Food Administrator, or such person as he may designate, may take such action as may be appropriate, including the issuance of a suspension order.

The presiding officer shall preside at the hearing, administer oaths and affirmations, and rule on motions, requests, and on the admission and exclusion of evidence. The hearing shall be conducted by the presiding officer in such manner as will permit you to present evidence to the fullest extent compatible with fair and expeditious determination of the issues raised. To this end:

(a) The rules of evidence prevailing in courts of law and equity shall not be controlling. The test of admissibility shall be the reliability, relevancy, and probative force of evidence offered.

(b) The presiding officer, having due regard for the need for expeditious decision, shall afford reasonable opportunity for cross-examination of witnesses. Any witness may, at the discretion of the presiding officer, be examined separately and apart from all other witnesses except those who may be parties to the proceeding. At the close of the hearing, the presiding officer may, at his discretion, allow a short period for the presentation of oral argument or for a summary of the facts disclosed at the hearing and, if he deems it advisable, may allow briefs to be filed within a period prescribed by him not to exceed 5 days. No written transcript of the hearing shall be made unless requested by you (in which event you must

provide for the making thereof and for the payment of the expenses therefor) or by the Department. Where a transcript is made at your request, you shall furnish two legible copies thereof to the presiding officer without charge within such time after completion of the taking of testimony as he shall direct. No transcript shall be made or considered part of the record until approved and certified by the presiding officer. In the event that no stenographic transcript of the testimony is taken, the presiding officer shall make a written summary of the relevant evidence received at the hearing, a copy of which shall be furnished to you.

If, after the hearing, it is determined that you have violated a food production order, and a suspension order is issued, a copy of such order will be served on you and copies thereof will be sent to your suppliers if the suspension order affects them. If, on the other hand, after the hearing, it is determined that you have not violated such an order, an order of dismissal will be entered terminating the proceeding and a copy of such order will be served on you.

If a suspension order is issued against you as a result of this hearing, you may, within 5 days after service of the suspension order upon you, file with the Office of the War Food Administrator, or the office of such person as he may designate, a petition for reconsideration of the suspension order. Such petition may be accompanied by any affidavits or briefs which you desire to submit. Within a reasonable time after filing such a request for reconsideration, the War Food Administrator, or such person as he may designate, shall affirm, modify, rescind, or stay the suspension order, or direct that a further hearing be held thereon. The decision of the War Food Administrator, or such person as he may designate, shall be final and conclusive.

----------,
Director, Food Production Administration.

Form E–7
U. S. Department of Agriculture

UNITED STATES DEPARTMENT OF AGRICULTURE

BEFORE THE WAR FOOD ADMINISTRATOR

FOOD PRODUCTION ADMINISTRATION

In the Matter of—
_____ } Docket No. _____

CERTIFICATE OF SERVICE

_____ hereby certifies that:

1. I am over 18 years of age, and not a party to this proceeding.
2. I reside at _____.
3. On the _____ day of _____, 194__, at _____. m., _____ WT, the attached Notice of Hearing (or other document) addressed to _____
_____
_____
returnable on the _____ day of _____, 194 __, at _____. m., was { duly served by me on such person. / duly mailed by me to such person and registered mail receipt is attached.

_____

(Strike out the inapplicable phrase.)

Form E–8
U. S. Department of Agriculture

TITLE 7.—AGRICULTURE

CHAPTER X.—FOOD PRODUCTION ADMINISTRATION

Part 1201—Suspension Orders

[SUSPENSION ORDER 1]

ROE MACHINERY COMPANY

(Richard Roe), doing business as a (dealer in farm machinery and equipment) at (111–11th Street, Remington, Idaho), hereinafter referred to as respondent, was duly served with a Statement of Charges and Procedure advising him that he was charged with violations of (Food Production Order 3). (Put in here what actually occurred; that is, whether respondent filed an answer, whether hearing was held, etc. For example, the statement might be as follows: "The respondent filed an answer and request for hearing. Pursuant to said request a hearing was held in Boise, Idaho, on January 15, 1943. Present at the hearing were the respondent and a representative of the War Food Administrator. The evidence pertaining to the violations alleged was presented before an authorized Presiding Officer.") (The answer of respondent and) the evidence presented at such hearing having been considered by the War Food Administrator in accordance with the provisions of (Food Production Order 3), it is HEREBY DETERMINED that:

(a) Respondent is engaged in business as a (dealer in farm machinery and equipment) at (111–11th Street, Remington, Idaho), his place of business being known as (Roe Machinery Company).

(b) Respondent has violated (Food Production Order 3) in that (on several occasions between December 1 and December 15, 1942), he transferred (two tractors and one power spray pump) for use by the transferee and failed to ascertain that purchase certificates had been issued for such transfers and failed to procure such purchase certificates in accordance with the provisions of (Food Production Order 3).

Because of the great scarcity of farm machinery and equipment and the importance of having it distributed in a manner most beneficial to the war effort, these violations have impeded the war effort and have, therefore, been contrary to the public interest. Further, it appears to the War Food Administrator that further violations by the respondent are likely unless appropriate administrative action is taken. *It is therefore ordered*, That:

§ 1201.1 *Suspension Order 1.*

(a) During the period in which this Suspension Order shall be in effect, (1) respondent, his agents, successors or assigns, shall not transfer, in any manner, any (farm machinery and equipment listed in Schedule I of Food Production Order 3); (2) respondent, his agents, successors or assigns, shall not, for the purpose of resale, accept transfers of, or in any manner, directly or indirectly, receive, (farm machinery and equipment listed in Schedule I of Food Production Order 3); (3) no person shall transfer any (farm machinery and equipment listed in Schedule I of Food Production Order 3 to respondent, his agents, successors or assigns).

(b) Any terms used in this Suspension Order that are defined in (Food Production Order 3) shall have the meaning therein given them.

(c) This Suspension Order No. 1 shall become effective (12:01 a. m., January 1, 1943) and, unless sooner terminated, shall expire (12:01 a. m., February 1, 1943).

Pub. Law 671, 76th Cong., as amended by Pub. Law 89, 77th Cong., and Pub. Law 507, 77th Cong., E. O. 9280, 7 F. R. 10179.

Issued this _____ day of _____, 194__.

_____,
War Food Administrator.

Form E–9

U. S. Department of Agriculture

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE WAR FOOD ADMINISTRATOR
FOOD PRODUCTION ADMINISTRATION

In the Matter of—
---------- } Docket No. ----------

ORDER OF DISMISSAL

This matter having come before the undersigned upon (place here the matters considered by the Director, such as investigation report, answer of respondent, evidence submitted at the hearing, if any), and the Director being fully advised in the premises, finds that there is not sufficient evidence to support the statement of charges made against the respondent (Richard Roe), and it is, therefore, ordered that the statement of charges against (Richard Roe) be and the same hereby is dismissed.

----------,
Director of Food Production.

Form E–10
U. S. Department of Agriculture

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE WAR FOOD ADMINISTRATOR
FOOD PRODUCTION ADMINISTRATION

In the Matter of—
_____ } Docket No. _____

NOTICE OF HEARING

To:
_____
_____
_____

You are hereby notified that the hearing which you requested on the Statement of Charges served upon you on the _____ day of _____, 1943, will be heard before an authorized representative of the Department of Agriculture in the (enter here the name of building in which the hearing will be held), _____, _____, on the _____ day of _____, 19____, at _____. m. In the event that you fail to appear at such hearing, you will be deemed to have waived any objection to the War Food Administrator, or such person as he may designate, taking such action as is appropriate, including the issuance of a suspension order.

_____,
_____,
Regional Attorney of the Department of Agriculture.
(Located at (give address here))

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